

109TH CONGRESS
1ST SESSION

H. R. 903

To amend the Balanced Budget and Emergency Deficit Control Act of 1985 and the Congressional Budget Act of 1974 to extend the discretionary spending caps and the pay-as-you-go requirement, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 17, 2005

Mr. COOPER (for himself, Mr. TANNER, Mr. CARDOZA, Mr. MATHESON, Mr. BOYD, Mr. ROSS, Mr. BARROW, Mr. CASE, Mr. MICHAUD, Mr. DAVIS of Tennessee, Mr. SALAZAR, Ms. HARMAN, Mr. THOMPSON of California, Mr. COSTA, Mr. BOSWELL, Ms. HERSETH, Mr. MOORE of Kansas, Mr. SCOTT of Georgia, Mr. CHANDLER, Mr. FORD, Mr. BERRY, Mr. HOLDEN, Mr. MCINTYRE, Mr. BISHOP of Georgia, Mr. SCHIFF, and Mr. TAYLOR of Mississippi) introduced the following bill; which was referred to the Committee on the Budget, and in addition to the Committee on Rules, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To amend the Balanced Budget and Emergency Deficit Control Act of 1985 and the Congressional Budget Act of 1974 to extend the discretionary spending caps and the pay-as-you-go requirement, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Fiscal Honesty and
3 Accountability Act of 2005”.

4 **SEC. 2. EXTENSION OF PAY-AS-YOU-GO REQUIREMENT.**

5 (a) PURPOSE.—Section 252(a) of the Balanced
6 Budget and Emergency Deficit Control Act of 1985 is
7 amended by striking “2002” and inserting “2010”.

8 (b) SEQUESTRATION.—Section 252(b)(1) of the Bal-
9 anced Budget and Emergency Deficit Control Act of 1985
10 is amended by striking “2002” and inserting “2010”.

11 **SEC. 3. EXTENSION OF THE DISCRETIONARY SPENDING**
12 **CAPS.**

13 (a) IN GENERAL.—Section 251(c) of the Balanced
14 Budget and Emergency Deficit Control Act of 1985 is
15 amended—

16 (1) by redesignating paragraphs (4) through
17 (9) as paragraphs (7) through (12), respectively,
18 and inserting after paragraph (3) the following new
19 paragraphs:

20 “(4) with respect to fiscal year 2007 for the
21 discretionary category: \$857,952,000,000 in new
22 budget authority and \$906,854,000,000 in outlays;

23 “(5) with respect to fiscal year 2008 for the
24 discretionary category: \$875,969,000,000 in new
25 budget authority and \$920,233,000,000 in outlays;

1 “(6) with respect to fiscal year 2009 for the
 2 discretionary category: \$894,365,000,000 in new
 3 budget authority and \$933,786,000,000 in outlays;”.

4 (b) EXPIRATION.—Section 275 of the Balanced
 5 Budget and Emergency Deficit Control Act of 1985 (2
 6 U.S.C. 900 note) is amended by striking subsection (b).

7 **SEC. 4. ACCOUNTABILITY IN EMERGENCY SPENDING.**

8 (a) OMB EMERGENCY CRITERIA.—Section 3 of the
 9 Congressional Budget and Impoundment Control Act of
 10 1974 is amended by adding at the end the following new
 11 paragraph:

12 “(11)(A) The term ‘emergency’ means a situa-
 13 tion that—

14 “(i) requires new budget authority and
 15 outlays (or new budget authority and the out-
 16 lays flowing therefrom) for the prevention or
 17 mitigation of, or response to, loss of life or
 18 property, or a threat to national security; and

19 “(ii) is unanticipated.

20 “(B) As used in subparagraph (A), the term
 21 ‘unanticipated’ means that the situation is—

22 “(i) sudden, which means quickly coming
 23 into being or not building up over time;

24 “(ii) urgent, which means a pressing and
 25 compelling need requiring immediate action;

1 “(iii) unforeseen, which means not pre-
2 dicted or anticipated as an emerging need; and

3 “(iv) temporary, which means not of a per-
4 manent duration.”.

5 (b) DEVELOPMENT OF GUIDELINES FOR APPLICA-
6 TION OF EMERGENCY DEFINITION.—Not later than five
7 months after the date of enactment of this Act, the chair-
8 men of the Committees on the Budget (in consultation
9 with the President) shall, after consulting with the chair-
10 men of the Committees on Appropriations and applicable
11 authorizing committees of their respective Houses and the
12 Directors of the Congressional Budget Office and the Of-
13 fice of Management and Budget, jointly publish in the
14 Congressional Record guidelines for application of the def-
15 inition of emergency set forth in section 3(11) of the Con-
16 gressional Budget and Impoundment Control Act of 1974.

17 (c) SEPARATE HOUSE VOTE ON EMERGENCY DES-
18 IGNATION.—(1) Rule XXII of the Rules of the House of
19 Representatives is amended by adding at the end the fol-
20 lowing new clause:

21 “13. In the consideration of any measure for amend-
22 ment in the Committee of the Whole containing any emer-
23 gency spending designation, it shall always be in order un-
24 less specifically waived by terms of a rule governing con-
25 sideration of that measure, to move to strike such emer-

1 gency spending designation from the portion of the bill
2 then open to amendment.”.

3 (2) The Committee on Rules shall include in the re-
4 port required by clause 1(d) of rule XI (relating to its
5 activities during the Congress) of the Rules of the House
6 of Representatives a separate item identifying all waivers
7 of points of order relating to emergency spending designa-
8 tions, listed by bill or joint resolution number and the sub-
9 ject matter of that measure.

10 (d) COMMITTEE NOTIFICATION OF EMERGENCY
11 LEGISLATION.—Whenever the Committee on Appropria-
12 tions or any other committee of either House (including
13 a committee of conference) reports any bill or joint resolu-
14 tion that provides budget authority for any emergency, the
15 report accompanying that bill or joint resolution (or the
16 joint explanatory statement of managers in the case of a
17 conference report on any such bill or joint resolution) shall
18 identify all provisions that provide budget authority and
19 the outlays flowing therefrom for such emergency and in-
20 clude a statement of the reasons why such budget author-
21 ity meets the definition of an emergency pursuant to the
22 guidelines described in subsection (b).

23 (e) RESERVE FUND FOR EMERGENCIES IN PRESI-
24 DENT’S BUDGET.—Section 1105(f) of title 31, United
25 States Code is amended by adding at the end the following

1 new sentences: “Such budget submission shall also comply
 2 with the requirements of section 316(b) of the Congres-
 3 sional Budget Act of 1974 and, in the case of any budget
 4 authority requested for an emergency, such submission
 5 shall include a detailed justification of why such emer-
 6 gency is an emergency within the meaning of section 3(11)
 7 of the Congressional Budget Act of 1974.”.

8 (f) ADJUSTMENTS AND RESERVE FUND FOR EMER-
 9 GENCIES IN JOINT BUDGET RESOLUTIONS.—Title III of
 10 the Congressional Budget Act of 1974 is amended by add-
 11 ing at the end the following new section:

12 “EMERGENCIES

13 “SEC. 316. (a) ADJUSTMENTS.—

14 “(1) IN GENERAL.—After the reporting of a bill
 15 or joint resolution or the submission of a conference
 16 report thereon that provides budget authority for
 17 any emergency as identified pursuant to subsection
 18 (d) that is not covered by subsection (c)—

19 “(A) the chairman of the Committee on
 20 the Budget of the House of Representatives or
 21 the Senate shall determine and certify, pursu-
 22 ant to the guidelines referred to in subsection
 23 (b), the portion (if any) of the amount so speci-
 24 fied that is for an emergency within the mean-
 25 ing of section 3(11); and

1 “(B) such chairman shall make the adjust-
2 ment set forth in paragraph (2) for the amount
3 of new budget authority (or outlays) in that
4 measure and the outlays flowing from that
5 budget authority.

6 “(2) MATTERS TO BE ADJUSTED.—The adjust-
7 ments referred to in paragraph (1) are to be made
8 to the allocations made pursuant to the appropriate
9 joint resolution on the budget pursuant to section
10 302(a) and shall be in an amount not to exceed the
11 amount reserved for emergencies pursuant to the re-
12 quirements of subsection (b).

13 “(b) RESERVE FUND FOR EMERGENCIES.—

14 “(1) AMOUNTS.—The amount set forth in the
15 reserve fund for emergencies (other than those cov-
16 ered by subsection (c)) for budget authority and out-
17 lays for a fiscal year pursuant to section 301(a)(6)
18 shall equal—

19 “(A) the average of the enacted levels of
20 budget authority for emergencies (other than
21 those covered by subsection (c)) in the 5 fiscal
22 years preceding the current year; and

23 “(B) the average of the levels of outlays
24 for emergencies in the 5 fiscal years preceding
25 the current year flowing from the budget au-

1 thority referred to in subparagraph (A), but
2 only in the fiscal year for which such budget
3 authority first becomes available for obligation.

4 “(2) AVERAGE LEVELS.—For purposes of para-
5 graph (1), the amount used for a fiscal year to cal-
6 culate the average of the enacted levels when one or
7 more of such 5 preceding fiscal years is any of fiscal
8 years 2001 through 2005 is as follows: the amount
9 of enacted levels of budget authority and the amount
10 of new outlays flowing therefrom for emergencies,
11 but only in the fiscal year for which such budget au-
12 thority first becomes available for obligation for each
13 of such 5 fiscal years, which shall be determined by
14 the Committees on the Budget of the House of Rep-
15 resentatives and the Senate after receipt of a report
16 on such matter transmitted to such committees by
17 the Director of the Congressional Budget Office 6
18 months after the date of enactment of this section
19 and thereafter in February of each calendar year.

20 “(c) TREATMENT OF EMERGENCIES TO FUND CER-
21 TAIN MILITARY OPERATIONS.—Whenever the Committee
22 on Appropriations reports any bill or joint resolution that
23 provides budget authority for any emergency that is a
24 threat to national security and the funding of which car-
25 ries out a military operation authorized by a declaration

1 of war or a joint resolution authorizing the use of military
2 force and the report accompanying that bill or joint resolu-
3 tion, pursuant to subsection (d), identifies any provision
4 that increases outlays or provides budget authority (and
5 the outlays flowing therefrom) for such emergency, the en-
6 actment of which would cause the total amount of budget
7 authority or outlays provided for emergencies for the
8 budget year in the joint resolution on the budget (pursu-
9 ant to section 301(a)(6)) to be exceeded:

10 “(1) Such bill or joint resolution shall be re-
11 ferred to the Committee on the Budget of the House
12 or the Senate, as the case may be, with instructions
13 to report it without amendment, other than that
14 specified in subparagraph (B), within 5 legislative
15 days of the day in which it is reported from the orig-
16 inating committee. If the Committee on the Budget
17 of either House fails to report a bill or joint resolu-
18 tion referred to it under this subparagraph within
19 such 5-day period, the committee shall be automati-
20 cally discharged from further consideration of such
21 bill or joint resolution and such bill or joint resolu-
22 tion shall be placed on the appropriate calendar.

23 “(2) An amendment to such a bill or joint reso-
24 lution referred to in this subsection shall only consist
25 of an exemption from section 251 of the Balanced

1 Budget and Emergency Deficit Control Act of 1985
2 of all or any part of the provisions that provide
3 budget authority (and the outlays flowing therefrom)
4 for such emergency if the committee determines,
5 pursuant to the guidelines referred to in subsection
6 (b), that such budget authority is for an emergency
7 within the meaning of section 3(11).

8 “(3) If such a bill or joint resolution is reported
9 with an amendment specified in subparagraph (B)
10 by the Committee on the Budget of the House of
11 Representatives or the Senate, then the budget au-
12 thority and resulting outlays that are the subject of
13 such amendment shall not be included in any deter-
14 minations under section 302(f) or 311(a) for any
15 bill, joint resolution, amendment, motion, or con-
16 ference report.”.

17 (g) CONTENT OF BUDGET RESOLUTIONS.—Section
18 301(a) of the Congressional Budget Act of 1974 is amend-
19 ed by redesignating paragraphs (6) and (7) as paragraphs
20 (7) and (8), respectively, and by inserting after paragraph
21 (5) the following new paragraph:

22 “(6) totals of new budget authority and outlays
23 for emergencies;”.

1 (h) WAIVER AND APPEAL IN THE SENATE.—Section
 2 904 of the Congressional Budget Act of 1974 is amend-
 3 ed—

4 (1) in subsection (c)(1), by inserting “316,”
 5 after “313,”; and

6 (2) in subsection (d)(2), by inserting “316,”
 7 after “313,”.

8 (i) CONFORMING AMENDMENT.—The table of con-
 9 tents set forth in section 1(b) of the Congressional Budget
 10 and Impoundment Control Act of 1974 is amended by in-
 11 serting after the item relating to section 315 the following
 12 new item:

“Sec. 316. Emergencies.”.

13 (j) APPLICATION OF SECTION 306 TO EMERGENCIES
 14 IN EXCESS OF AMOUNTS IN RESERVE FUND.—Section
 15 306 of the Congressional Budget Act of 1974 is amended
 16 by inserting at the end the following new sentence: ‘No
 17 amendment reported by the Committee on the Budget (or
 18 from the consideration of which such committee has been
 19 discharged) pursuant to section 316(c) may be amended.

20 (k) UP-TO-DATE TABULATIONS.—Section 308(b)(2)
 21 of the Congressional Budget Act of 1974 is amended by
 22 striking “and” at the end of subparagraph (B), by striking
 23 the period at the end of subparagraph (C) and inserting
 24 “; and”, and by adding at the end the following new sub-
 25 paragraph:

1 “(D) shall include an up-to-date tabulation
2 of amounts remaining in the reserve fund for
3 emergencies.”.

4 (l) POINT OF ORDER.—Section 305 of the Congres-
5 sional Budget Act of 1974 is amended by adding at the
6 end the following new subsection:

7 “(e) POINT OF ORDER REGARDING EMERGENCY RE-
8 SERVE FUND.—It shall not be in order in the House of
9 Representatives or in the Senate to consider an amend-
10 ment to a joint resolution on the budget which changes
11 the amount of budget authority and outlays set forth in
12 section 301(a)(4) for emergency reserve fund.”.

13 (m) TECHNICAL AMENDMENT.—(1) Section
14 904(c)(1) of the Congressional Budget Act of 1974 is
15 amended by inserting “305(e),” after “305(c)(4),”.

16 (2) Section 904(d)(2) of the Congressional Budget
17 Act of 1974 is amended by inserting “305(e),” after
18 “305(c)(4),”.

19 **SEC. 5. DISCLOSURE OF INTEREST COSTS.**

20 Section 308(a)(1) of the Congressional Budget Act
21 of 1974 (2 U.S.C. 639(a)(1)) is amended—

22 (1) in subparagraph (B), by striking “and”
23 after the semicolon;

24 (2) in subparagraph (C), by striking the period
25 and inserting “; and”; and

1 (3) by adding at the end the following new sub-
2 paragraph:

3 “(D) containing a projection by the Con-
4 gressional Budget Office of the cost of the debt
5 servicing that would be caused by such measure
6 for such fiscal year (or fiscal years) and each
7 of the four ensuing fiscal years.”.

8 **SEC. 6. CBO SCORING OF CONFERENCE REPORTS.**

9 (a) The first sentence of section 402 of the Congres-
10 sional Budget Act of 1974 is amended as follows:

11 (1) Insert “or conference report thereon,” be-
12 fore “and submit”.

13 (2) In paragraph (1), strike “bill or resolution”
14 and insert “bill, joint resolution, or conference re-
15 port”.

16 (3) At the end of paragraph (2) strike “and”,
17 at the end of paragraph (3) strike the period and in-
18 sert “; and”, and after such paragraph (3) add the
19 following new paragraph:

20 “(4) A determination of whether such bill, joint
21 resolution, or conference report provides direct
22 spending.”.

23 (4) At the end, add the following new sentence:
24 “The Director shall also prepare such estimates for
25 any bill or resolution of a public character that has

1 not been reported by a committee before it may be
2 considered in the House or Representatives or Sen-
3 ate.”

4 (b) The second sentence of section 402 of the Con-
5 gressional Budget Act of 1974 is amended by inserting
6 before the period the following: “, or in the case of a con-
7 ference report, shall be included in the joint explanatory
8 statement of managers accompanying such conference re-
9 port if timely submitted before such report is filed”.

10 **SEC. 7. BUDGET COMPLIANCE STATEMENTS.**

11 Clause 3(d) of rule XIII of the Rules of the House
12 of Representatives is amended by adding at the end the
13 following new subparagraph:

14 “(4) A budget compliance statement prepared
15 by the chairman of the Committee on the Budget,
16 if timely submitted prior to the filing of the report,
17 which shall include assessment by such chairman as
18 to whether the bill or joint resolution complies with
19 the requirements of sections 302, 303, 306, 311,
20 and 401 of the Congressional Budget Act of 1974
21 or any other requirements set forth in a concurrent
22 resolution on the budget and may include the budg-
23 etary implications of that bill or joint resolution
24 under section 251 or 252 of the Balanced Budget

1 and Emergency Deficit Control Act of 1985, as ap-
2 plicable.”.

3 **SEC. 8. AUTOMATIC BUDGET ENFORCEMENT FOR MEAS-**
4 **URES CONSIDERED ON THE FLOOR.**

5 (a) IN GENERAL.—Title III of the Congressional
6 Budget Act of 1974 (as amended by section 2(f)) is fur-
7 ther amended by adding at the end the following new sec-
8 tion:

9 “BUDGET EVASION POINTS OF ORDER
10 “SEC. 317. (a) DISCRETIONARY SPENDING CAPS.—
11 It shall not be in order in the House of Representatives
12 or the Senate to consider any bill or resolution (or amend-
13 ment, motion, or conference report on that bill or resolu-
14 tion) that waives or suspends the enforcement of section
15 251 of the Balanced Budget and Emergency Deficit Con-
16 trol Act of 1985 or otherwise would alter the spending
17 limits set forth in that section.

18 “(b) PAY-AS-YOU-GO.—It shall not be in order in the
19 House of Representatives or the Senate to consider any
20 bill or resolution (or amendment, motion, or conference
21 report on that bill or resolution) that waives or suspends
22 the enforcement of section 252 of the Balanced Budget
23 and Emergency Deficit Control Act of 1985 or otherwise
24 would alter the balances of the pay-as-you-go scorecard
25 pursuant to that section.

1 “(c) DIRECTED SCORING.—It shall not be in order
2 in the House of Representatives or the Senate to consider
3 any bill or resolution (or amendment, motion, or con-
4 ference report on that bill or resolution) that directs the
5 scorekeeping of any bill or resolution.

6 “(d) FAR-OUTYEARS.—It shall not be in order in the
7 House of Representatives or the Senate to consider any
8 bill or resolution (or amendment, motion, or conference
9 report on that bill or resolution) that contains a provision
10 providing new budget authority or which reduces revenues
11 which first takes effect after the first five fiscal years cov-
12 ered in the most recently adopted concurrent resolution
13 on the budget and would have the effect of reducing the
14 surplus or increasing the deficit in any fiscal year.

15 “(e) ENFORCEMENT IN THE HOUSE OF REPRESENT-
16 ATIVES.—(1) It shall not be in order in the House of Rep-
17 resentatives to consider a rule or order that waives the
18 application of this section.

19 “(2)(A) This subsection shall apply only to the House
20 of Representatives.

21 “(B) In order to be cognizable by the Chair, a point
22 of order under this section must specify the precise lan-
23 guage on which it is premised.

24 “(C) As disposition of points of order under this sec-
25 tion, the Chair shall put the question of consideration with

1 respect to the proposition that is the subject of the points
2 of order.

3 “(D) A question of consideration under this section
4 shall be debatable for 10 minutes by each Member initi-
5 ating a point of order and for 10 minutes by an opponent
6 on each point of order, but shall otherwise be decided with-
7 out intervening motion except one that the House adjourn
8 or that the Committee of the Whole rise, as the case may
9 be.

10 “(E) The disposition of the question of consideration
11 under this subsection with respect to a bill or joint resolu-
12 tion shall be considered also to determine the question of
13 consideration under this subsection with respect to an
14 amendment made in order as original text.”.

15 (b) WAIVER AND APPEAL IN THE SENATE.—Section
16 904 of the Congressional Budget Act of 1974 is amend-
17 ed—

18 (1) in subsection (c)(1), by inserting “317,”
19 after “316,”; and

20 (2) in subsection (d)(2), by inserting “317,”
21 after “316,”.

22 (c) TABLE OF CONTENTS.—The table of contents for
23 the Congressional Budget Act of 1974 is amended by in-
24 serting after the item for section 316 the following:

“Sec. 317. Budget evasion points of order.”.

1 **SEC. 9. APPLICATION OF BUDGET ACT POINTS OF ORDER**
2 **TO UNREPORTED LEGISLATION.**

3 (a) Section 315 of the Congressional Budget Act of
4 1974 is amended by striking “reported” the first place it
5 appears.

6 (b) Section 303(b) of the Congressional Budget Act
7 of 1974 is amended—

8 (1) in paragraph (1), by striking “(A)” and by
9 redesignating subparagraph (B) as paragraph (2)
10 and by striking the semicolon at the end of such new
11 paragraph (2) and inserting a period; and

12 (2) by striking paragraph (3).

13 **SEC. 10. REQUIREMENTS FOR BUDGET ACT WAIVERS IN**
14 **THE HOUSE OF REPRESENTATIVES.**

15 (a) JUSTIFICATION FOR BUDGET ACT WAIVERS.—
16 Clause 6 of rule XIII of the Rules of the House of Rep-
17 resentatives is amended by adding at the end the following
18 new paragraph:

19 “(h) It shall not be in order to consider any resolution
20 from the Committee on Rules for the consideration of any
21 reported bill or joint resolution which waives section 302,
22 303, 311, or 401 of the Congressional Budget Act of
23 1974, unless the report accompanying such resolution in-
24 cludes a description of the provision proposed to be
25 waived, an identification of the section being waived, the

1 reasons why such waiver should be granted, and an esti-
2 mated cost of the provisions to which the waiver applies.”.

3 (b) SEPARATE VOTE TO WAIVE MAJOR BUDGET ACT
4 POINT OF ORDER.—Section 312 of the Congressional
5 Budget Act of 1974 is amended by adding at the end the
6 following new subsection

7 “(g)(1) It shall not be in order in the House of Rep-
8 resentatives to consider a rule or order that waives the
9 application of a major budget act point of order as defined
10 in paragraph (2).

11 “(2) For the purposes of this subsection, the term
12 ‘major budget point of order’ means any point of order
13 arising under any section listed in section 904.

14 “(3)(A) In order to be cognizable by the Chair, a
15 point of order under the sections referenced in paragraph
16 (2) must specify the precise language on which it is pre-
17 mised.

18 “(B) As disposition of points of order under the sec-
19 tions referenced in paragraph (2), the Chair shall put the
20 question of consideration with respect to the proposition
21 that is the subject of the points of order

22 “(C) A question of consideration under the sections
23 referenced in paragraph (2) shall be debatable for 10 min-
24 utes by each Member initiating a point of order and for
25 10 minutes by an opponent on each point of order, but

1 shall otherwise be decided without intervening motion ex-
2 cept one that the House adjourn or that the Committee
3 of the Whole rise, as the case may be.

4 “(D) The disposition of the question of consideration
5 under this subsection with respect to a bill or joint resolu-
6 tion shall be considered also to determine the question of
7 consideration under this subsection with respect to an
8 amendment made in order as original text.”.

